IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

(1) WRIT PETITION NO.706 OF 2005
IN
CRI.REVISION APPLICATION NO. 189 OF 2004
IN
CRI.COMPLAINT NO. 799 OF 2001

Mr.Kirit J.Shandilya ..Petitioner

Vs.

Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.Rajesh More A.P.P. for State
....

WITH
(2) WRIT PETITION NO.707 OF 2005
IN
CRI.REVISION APPLICATION NO. 219 OF 2004
IN
CRI.COMPLAINT NO. 1077 OF 2001

Mrs.Varsha Shandilya & Anr...Petitioners

Vs.

Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.Rajesh More A.P.P. for State
....

WITH
(3) WRIT PETITION NO.708 OF 2005
IN
CRI.REVISION APPLICATION NO. 188 OF 2004
IN
CRI.COMPLAINT NO.1080 OF 2001

Mrs.Varsha Shandilya ..Petitioner
Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.Rajesh More A.P.P. for State
....

WITH
(4) WRIT PETITION NO.710 OF 2005
IN
CRI.REVISION APPLICATION NO. 190 OF 2004
IN
CRI.COMPLAINT NO.1081 OF 2001

Mrs.Varsha Shandilya ..Petitioner
Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.Rajesh More A.P.P. for State
....

WITH
(5) WRIT PETITION NO.711 OF 2005
IN
CRI.REVISION APPLICATION NO.220 OF 2004
IN
CRI.COMPLAINT NO.1194 OF 2001

Mrs.Varsha Shandilya
and Anr. ..Petitioners

Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.Rajesh More A.P.P. for State
....

WITH
(6) WRIT PETITION NO.715 OF 2005
IN
CRI.REVISION APPLICATION NO.192 OF 2004
IN
CRI.COMPLAINT NO.1196 OF 2001

Mrs.Varsha Shandilya ..Petitioner

Vs.

Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.S.S.Pednekar, A.P.P. for State
....

WITH
(7) WRIT PETITION NO.726 OF 2005
IN
CRI.REVISION APPLICATION NO.217 OF 2004
IN
CRI.COMPLAINT NO.1079 OF 2001

Mrs.Varsha Shandilya
and Anr. ..Petitioners

Vs.

Thermax Capital Ltd. and Anr..Respondents

....

Mr.Arvind Rathod Advocate for Petitioners
Mr.S.S.Pednekar, A.P.P. for State
....

WITH
(8) WRIT PETITION NO.732 OF 2005
IN
CRI.REVISION APPLICATION NO.191 OF 2004
IN
CRI.COMPLAINT NO.1187 OF 2001

Mrs.Varsha Shandilya ..Petitioner
Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.S.S.Pednekar, A.P.P. for State
....

WITH
(9) WRIT PETITION NO.733 OF 2005
IN
CRI.REVISION APPLICATION NO.221 OF 2004
IN
CRI.COMPLAINT NO.1193 OF 2001

Mrs.Varsha Shandilya
and Anr. ..Petitioners
Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioner
Mr.S.S.Pednekar A.P.P. for State
....

WITH
(10) WRIT PETITION NO.734 OF 2005
IN
CRI.REVISION APPLICATION NO.215 OF 2004

IN
CRI.COMPLAINT NO. 1076 OF 2001

Mrs. Varsha Shandilya
and Anr. ..Petitioners
Vs.
Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioners
Mr.S.V.Gajare A.P.P. for State
....

WITH
(11) WRIT PETITION NO.735 OF 2005
IN
CRI.REVISION APPLICATION NO.216 OF 2004
IN
CRI.COMPLAINT NO.1195 OF 2001

Mrs.Varsha Shandilya
and Anr. ..Petitioners

Vs.

Thermax Capital Ltd. and Anr..Respondents

....
Mr.Arvind Rathod Advocate for Petitioners
Mr.M.S.Mhambry, A.P.P. for State
....

WITH
(12) WRIT PETITION NO.736 OF 2005
IN
CRI.REVISION APPLICATION NO.218 OF 2004
IN
CRI.COMPLAINT NO.1078 OF 2001

Mrs.Varsha Shandilya
and Anr. ..Petitioners

Vs.

Thermax Capital Ltd. and Anr..Respondents

....

Mr.Arvind Rathod Advocate for Petitioners
Mr.M.S.Mhambray A.P.P. for State

....

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JUNE 10, 2005

P.C.

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The Petitioners are seeking quashing of the proceedings in Court Case Nos. 799 of 2001, 1077 of 2001, 1080 of 2001, 1081 of 2001, 1194 of 2001, 1196 of 2001, 1079 of 2001, 1187 of 2001, 1193 of 2001, 1076 of 2001, 1195 of 2001 and 1078 of 2001. All these cases are pending before the learned J.M.F.C. Kirkee, Pune. In all these cases process came to be issued against the petitioners under Section 138 of Negotiable Instruments Act. If the

process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end. The learned Advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. The petitioners have preferred applications for recalling of process/discharge before the learned Magistrate which came to be rejected. The said order came to be challenged by the petitioners before the learned 8th Additional Sessions Judge, Pune. The learned Sessions Judge rejected said revision petitions. holding that in view of the decision in the case of **Adalat Prasad Vs. Rooplal Jindal and others; 2004 (4) Mh.L.J. 274,** "this Court too has no authority to quash or confirm the order of recalling of process passed by the Magistrate since there is no express provision for review in the Code of Criminal Procedure. In absence of such a provision, the matter rests under

inherent powers of the High Court envisaged in Section 482 of the Code of Criminal Procedure". However, I am of the opinion that the petitioners have remedy of preferring revision before the Sessions Court against the order of issuance of process by the learned Magistrate.

4. In view of the reasons recorded in my order dated 8th June, 2005 in Cri.Application No. 645 of 2005, it is clear that the petitioners have remedy of preferring revision before the Sessions Court against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the petitioners to prefer a revision before the concerned Sessions Court. It is made clear that the revision shall be preferred in respect of the order of the Magistrate issuing process against the petitioners and the revision

would not be in respect of the order of the Magistrate rejecting the application for recall of process. All the contentions of the parties are left open.

6. The learned counsel for the petitioners states that the necessary revision shall be preferred within a period of four weeks from today. The petitioners are exempted from personal appearance before the trial Court for a period of four weeks from today.

7. Writ Petitions are disposed of.

[V.K.TAHILRAMANI,J]